

EXHIBIT 19

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MASTER DOCKET 18-MD-2865 (LAK)
CASE NO. 18-CV-09797

IN RE:)
)
)

CUSTOMS AND TAX ADMINISTRATION OF)
THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
SCHEME LITIGATION)
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REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
EXAMINATION OF
JENS BROCHNER
DATE: April 29, 2021

REPORTED BY: MICHAEL FRIEDMAN, CCR

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11 (Pages 38 to 41)

<p style="text-align: right;">Page 38</p> <p>1 MR. OXFORD: Objection to form.</p> <p>2 A The question is disturbing or</p> <p>3 unclear. The job of the national office is</p> <p>4 to audit the various ministries in Denmark.</p> <p>5 And at the time, the National Audit</p> <p>6 Office had so-called Section 9, a Section 9</p> <p>7 grievance with the internal audit departments</p> <p>8 of various ministries, which, on behalf of</p> <p>9 the National Audit Office, carried out audits</p> <p>10 of the ministries.</p> <p>11 And that's why I had this</p> <p>12 conversation with Lone Strøm where she told</p> <p>13 me about the quality of SIR's work.</p> <p>14 Q Did she explain to you for sort of</p> <p>15 how long the concern about SIR's work --</p> <p>16 sorry, that's a badly-phrased question.</p> <p>17 Did Ms. Strøm convey whether this</p> <p>18 concern about SIR's work was a new concern or</p> <p>19 a longstanding concern?</p> <p>20 A It was a concern that had existed</p> <p>21 for at least a couple of years.</p> <p>22 Q Did you discuss with her any</p> <p>23 particular audits that SIR had performed or</p> <p>24 their findings?</p> <p>25 A No, I didn't. But generally, the</p>	<p style="text-align: right;">Page 40</p> <p>1 the time period that I'm focused on.</p> <p>2 Between January 2012 and August of</p> <p>3 2015, which department at SKAT was</p> <p>4 responsible for the processing of claims for</p> <p>5 dividend withholding tax refunds?</p> <p>6 A It was a department under director</p> <p>7 Jens Sørensen, who had the responsibility for</p> <p>8 collection, payment, and accounting. And my</p> <p>9 answer here refers to a time period from the</p> <p>10 1st of January of '13 until the end period</p> <p>11 you referred to earlier.</p> <p>12 Q I was asking about January of 2012</p> <p>13 to August of 2015.</p> <p>14 Is there a reason you're answering</p> <p>15 with respect to January 2013 to August 2015?</p> <p>16 A Yes, there's a reason. Yes.</p> <p>17 As of the first of January of '13</p> <p>18 there was a restructuring, change of the</p> <p>19 structure of the Ministry.</p> <p>20 Q And so, from January 2012 to</p> <p>21 January 2013, did someone other than Jens</p> <p>22 Sørensen have supervisory authority over</p> <p>23 dividend withholding tax refunds?</p> <p>24 A Yes, but with the reservation that</p> <p>25 it's eight years back in time. I believe</p>
<p style="text-align: right;">Page 39</p> <p>1 National Audit Office considered reports</p> <p>2 prepared by SIR to be difficult to read and</p> <p>3 to -- to understand.</p> <p>4 Q Did you review any reports from SIR</p> <p>5 or audit reports from SIR to determine</p> <p>6 whether you agreed with that conclusion?</p> <p>7 A No, I didn't. That's something</p> <p>8 that doesn't matter in the case.</p> <p>9 Because SIR was auditing and</p> <p>10 working on behalf of the National Audit</p> <p>11 Office. And if they were not satisfied with</p> <p>12 the quality of SIR's work, it was, of course,</p> <p>13 a problem.</p> <p>14 Q I think you answered this question</p> <p>15 previously, but let me just ask it again.</p> <p>16 Did you have any conversations with</p> <p>17 Peter Loft as part of your transition into</p> <p>18 your new role?</p> <p>19 A No. As I said before, he had left</p> <p>20 his position several months before.</p> <p>21 Q Okay. Between January 2012 and</p> <p>22 August 2015 -- and that's the period I'm</p> <p>23 going to focus on for most of these</p> <p>24 questions. So if I don't state that time</p> <p>25 limitation, you should understand it to be</p>	<p style="text-align: right;">Page 41</p> <p>1 that it was a production director, Stefan</p> <p>2 Normann, but I'm not quite certain.</p> <p>3 Q You said that -- you said that Jens</p> <p>4 Sørensen had responsibility for collection,</p> <p>5 payment, and accounting.</p> <p>6 Is that specifically with respect</p> <p>7 to dividend withholding tax, or was that</p> <p>8 function broader than just dividend</p> <p>9 withholding tax?</p> <p>10 MR. OXFORD: Objection to form.</p> <p>11 A Jens Sørensen had the</p> <p>12 responsibility for the areas mentioned</p> <p>13 before, and it was a much larger area than</p> <p>14 dividend withholding tax.</p> <p>15 Q Am I correct that the specific</p> <p>16 department or unit that was responsible for</p> <p>17 the processing of claims for dividend</p> <p>18 withholding tax refunds in the period January</p> <p>19 of 2012 to August of 2015 was known as</p> <p>20 "Accounting 2?"</p> <p>21 A I don't remember.</p> <p>22 Q Are you familiar with the unit</p> <p>23 known as "Accounting 2?"</p> <p>24 A Well, I know that -- I know that</p> <p>25 there was an entity in SKAT that handles</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">Page 70</p> <p>1 head of SIR was supposed to be making risk 2 and materiality determinations about which 3 audits to pass on to you as head of the 4 committee?</p> <p>5 MR. OXFORD: Objection to form.</p> <p>6 A Yes, that's correct.</p> <p>7 Q And during that time period, Kjeld 8 Rasmussen was the head of SIR.</p> <p>9 Is that correct?</p> <p>10 A Yes, it's correct.</p> <p>11 Q And is it also correct that you 12 never spoke with Kjeld Rasmussen during the 13 time that he was head of SIR?</p> <p>14 A I was hired on May 12th. I took up 15 the position on May 12th. There was so many 16 tasks that I had to look at.</p> <p>17 And during the period, until we had 18 the new structure, I delegated the 19 chairmanship of the audit committee to the 20 finance director. And it's against that 21 background that -- that's the reason why I 22 didn't talk to him, and because Lone Ström, 23 who was the head of the National Audit 24 Office, had told me that Kjeld's 25 qualifications were not satisfactory to be</p>	<p style="text-align: right;">Page 72</p> <p>1 doing during this period of time?</p> <p>2 A Broadly speaking, that he shared 3 the opinion that the work they were doing was 4 not always very good.</p> <p>5 Q Did he comment on specific audits 6 that SIR had performed?</p> <p>7 A No, I don't remember.</p> <p>8 Q At some point, Mr. Rasmussen was 9 let go as the head of SIR.</p> <p>10 Correct?</p> <p>11 A Yes. Because a new head of the 12 function was to be hired with the right 13 qualifications.</p> <p>14 Q When was that?</p> <p>15 A It's many years ago, and I don't 16 remember it precisely.</p> <p>17 Q Who replaced Mr. Rasmussen?</p> <p>18 A A new audits manager, head of the 19 audit function, at the beginning of 2014.</p> <p>20 And his name was Kurt Wagner.</p> <p>21 Q When Mr. Wagner began his role, did 22 you meet with him on a regular basis to learn 23 what SIR was auditing and what it was 24 finding?</p> <p>25 A Yes, I did.</p>
<p style="text-align: right;">Page 71</p> <p>1 the head of SIR.</p> <p>2 And here we have to remember that 3 SIR is handling tasks for the National Audit 4 Office.</p> <p>5 Q So the answer is no, you didn't 6 speak with Mr. Rasmussen during the time 7 period.</p> <p>8 Correct?</p> <p>9 A Yes, that's correct, and that's the 10 answer I made before. But I would like -- I 11 would like to give the background for it, 12 which I have just done.</p> <p>13 Q Who was the finance director to 14 whom you delegated the chairmanship of the 15 audit committee?</p> <p>16 A That was Karten Junker.</p> <p>17 K-A-R-T-E-N is the first name, and next name 18 is J-U-N-K-E-R.</p> <p>19 Q Do you know whether Karten Junker 20 spoke with Mr. Rasmussen?</p> <p>21 A Yes, I know that he did so. And I 22 remember having talked to -- with Karten 23 about Kjeld Rasmussen.</p> <p>24 Q What did you learn from -- from 25 Karten Junker about the work that SIR was</p>	<p style="text-align: right;">Page 73</p> <p>1 Q Do you know whether Mr. Wagner 2 performed any review of audits that had been 3 performed by SIR during the time that 4 Mr. Rasmussen was in charge?</p> <p>5 A I don't -- I don't know.</p> <p>6 Q Given the lack of confidence in 7 SIR's work, was any review undertaken to 8 determine whether the audits they had 9 performed had been adequate?</p> <p>10 A Yes. So the National Audit Office 11 reviewed -- which SIR worked for -- made a 12 report to us. And we made an analysis 13 ourselves, and Deloitte, which has a 14 worldwide specialty in the field, also 15 reviewed.</p> <p>16 Q I apologize. I'm having trouble 17 understanding that.</p> <p>18 A determination was made that SIR's 19 work was inadequate in the time period 20 preceding 2013.</p> <p>21 Correct?</p> <p>22 A After my talk with Lone Ström, work 23 was started to evaluate SIR's work and 24 reports overall. And Deloitte helped us do 25 that, as they have strong qualifications and</p>

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24 (Pages 90 to 93)

<p style="text-align: right;">Page 90</p> <p>1 says?</p> <p>2 A It has been read. It says, "Read,</p> <p>3 18 May 2010," it just says '10 -- 18 May</p> <p>4 '10 -- and then there's a signature.</p> <p>5 Q Do you recognize that signature,</p> <p>6 Mr. Brochner?</p> <p>7 A No, I don't recognize it, actually.</p> <p>8 Q So if you go to Page 8 of the</p> <p>9 report?</p> <p>10 Are you there?</p> <p>11 A Yes.</p> <p>12 Q And I'm going to draw your</p> <p>13 attention to the paragraph</p> <p>14 starting "Regnskat 2." R-E-G-N-S-K-A-T 2.</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Okay. And the reference to</p> <p>18 "Accounting 2" here, that's the unit that, at</p> <p>19 the time, was in charge of processing refund</p> <p>20 claims for dividend withholding tax.</p> <p>21 Is that correct?</p> <p>22 A I didn't work there in 2010, but I</p> <p>23 presume that it was. But I don't know</p> <p>24 exactly whether it's --</p> <p>25 Q And this report -- I'm sorry?</p>	<p style="text-align: right;">Page 92</p> <p>1 were discussed in this report.</p> <p>2 Q As a result of this 2010 audit</p> <p>3 report, a task force was created.</p> <p>4 Is that what you're saying?</p> <p>5 A Yes, that's correct.</p> <p>6 Q When was that task force</p> <p>7 established?</p> <p>8 A In 2010.</p> <p>9 Q And who was part of -- who was on</p> <p>10 that task force?</p> <p>11 A Well, as I remember, but it's</p> <p>12 difficult to remember names as it's a long</p> <p>13 time ago, but that was several directors with</p> <p>14 the responsibility for the area were members.</p> <p>15 Q And do you --</p> <p>16 MR. OXFORD: Can you let the</p> <p>17 witness finish his answer and have it</p> <p>18 translated, please?</p> <p>19 A So it's normal practice when you</p> <p>20 have a report with criticism. And the</p> <p>21 director of the area is asked to handle it,</p> <p>22 and implement the changes that are</p> <p>23 recommended.</p> <p>24 Q Did that working group, did its</p> <p>25 work result in some kind of written report</p>
<p style="text-align: right;">Page 91</p> <p>1 THE INTERPRETER: No, what he said.</p> <p>2 He presumes it was Accounting 2, but he</p> <p>3 doesn't know for certain.</p> <p>4 Q And the report concludes that</p> <p>5 Accounting 2 doesn't carry out checks on</p> <p>6 whether the investor is actually a</p> <p>7 shareholder in the company.</p> <p>8 Is that right?</p> <p>9 MR. OXFORD: Objection to form.</p> <p>10 A Well, that's correct.</p> <p>11 Q And it also says that the form is</p> <p>12 reviewed just to check whether all the</p> <p>13 information is included.</p> <p>14 Correct?</p> <p>15 MR. OXFORD: Objection to form.</p> <p>16 A Yes, that's correct.</p> <p>17 Q Do you know whether the process</p> <p>18 that's being described here by SIR changed</p> <p>19 between 2010 and August of 2015?</p> <p>20 MR. OXFORD: Objection.</p> <p>21 A I don't know. I know that -- I</p> <p>22 don't know, but I know -- I do know that on</p> <p>23 the basis of this audit report, a task force</p> <p>24 was established in order to investigate</p> <p>25 whether the processes could be improved that</p>	<p style="text-align: right;">Page 93</p> <p>1 about changes to be implemented?</p> <p>2 A Well, it's before my time, but as I</p> <p>3 understand, reporting was made on it.</p> <p>4 Q To whom was reporting made?</p> <p>5 A I assume the then audit committee.</p> <p>6 Q Do you know whether any changes</p> <p>7 were implemented as a result of the working</p> <p>8 group's report?</p> <p>9 MR. OXFORD: Objection to form.</p> <p>10 A I don't know, but I know that a</p> <p>11 working group had been established, and</p> <p>12 because it was with a view to improving</p> <p>13 the -- these issues, these problems.</p> <p>14 Q Mr. Brochner, to the best of your</p> <p>15 knowledge, does what's described in this 2010</p> <p>16 SIR report accurately describe the process</p> <p>17 for verifying ownership of shares as of</p> <p>18 August of 2015?</p> <p>19 MR. OXFORD: Objection to the form,</p> <p>20 asked and answered. You can answer it</p> <p>21 again.</p> <p>22 A I don't know, yeah, but I would</p> <p>23 have to have you repeat that question.</p> <p>24 Q Sure. To the best of your</p> <p>25 knowledge, does what is described in this</p>

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25 (Pages 94 to 97)

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1 2019 SIR report accurately describe the
2 process for verifying ownership of shares as
3 of August of 2015?

4 MR. OXFORD: Objection to the form,
5 asked and answered.

6 THE INTERPRETER: Is there a
7 question there? To me, it doesn't sound
8 like a question, yeah.

9 A So this report --

10 MR. OXFORD: I think we need a
11 break.

12 THE INTERPRETER: I need a break to
13 understand the question so I can
14 translate it. So it's probably time to
15 do a break and then repeat the question
16 when we resume, because I don't
17 understand.

18 MR. SCHOENFELD: Let's answer this
19 question and then we can go on a break.
20 So Mike, do you want to read the
21 question back into the record, please?

22 (Whereupon the record was read back
23 by the reporter.)

24 MR. OXFORD: Okay. My objection is
25 on the record. Asked and answered. You

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1 time. At least I understand they were
2 working -- work was done on bill to improve
3 the interaction interplay between
4 applications for refund and --

5 THE INTERPRETER: I'm just trying
6 to really check with Mr. Brochner.

7 A Yeah, so the claims for refund and
8 the reporting of dividends.

9 Q Did that bill become law?

10 A I believe so, in the fall of 2012.

11 Q And were any changes made to the
12 process for refunding dividend withholding
13 tax as a result of that bill becoming law?

14 A The act or the bill supports the
15 verification in SKAT. So therefore, the
16 processes were enhanced.

17 Q How were the processes enhanced?

18 A That SKAT was not to process claims
19 for refunds of dividend before they were
20 certain that the company had actually
21 reported the dividend.

22 Q Any other change to the process?

23 MR. OXFORD: Objection to the form.

24 A As I said before, it's before my
25 time. But I presume that the recommendations

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1 can ask them this question 65 different
2 ways. If you can answer it again a
3 different way, you can answer.

4 A I don't have a basis of answering
5 or giving any comments on that.

6 MR. OXFORD: Let's take a break.
7 Let's give our Madam Interpreter fresh
8 air.

9 THE INTERPRETER: Are we talking
10 about a SIR report for --

11 THE VIDEOGRAPHER: Stand by. The
12 time is 10:31 a.m. New York time and
13 we're going off the record.

14 (Brief recess taken.)

15 THE VIDEOGRAPHER: Stand by. The
16 time is 10:58 a.m. New York time and
17 we're back on record.

18 Q Mr. Brochner, apart from forming a
19 working group, are you able to identify a
20 single concrete action that was taken by the
21 Ministry of Taxation in response to the 2010
22 SIR report?

23 MR. OXFORD: Objection to the form.

24 A So the report and the working
25 group's recommendations are from before my

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1 of the working group were implemented in the
2 best way.

3 Q This wasn't before -- I apologize.
4 Please continue.

5 We were talking about changes made
6 in the fall of 2012 as a result of this bill
7 becoming law.

8 You were the permanent secretary as
9 of the fall of 2012.

10 Correct?

11 A Yes, that's correctly understood.
12 But you asked me to give an example of what
13 had come out of the working group from 2010.
14 And there, we had a bill in the fall of 2012.

15 Q Okay. So I want to make sure I
16 have this clear.

17 As a result of the working group, I
18 asked you to identify concrete changes. And
19 you identified the bill that became law in
20 the fall of 2012.

21 Correct?

22 A But you asked me to give examples
23 of concrete steps on the basis of -- on the
24 background of the working group's
25 recommendations. And I gave you an example.

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30 (Pages 114 to 117)

<p style="text-align: right;">Page 114</p> <p>1 Q Okay. I am about to transition 2 into a different area of questions, and we've 3 been going for a while. 4 Should we take a somewhat longer 5 break for dinner on your end and lunch on our 6 end? 7 MR. SCHOENFELD: We can go off the 8 record. 9 THE VIDEOGRAPHER: Stand by. The 10 time is 11:54 a.m. New York time and 11 we're going off the record. 12 (Brief recess taken.) 13 THE VIDEOGRAPHER: Stand by. The 14 time is 12:36 p.m. New York time and 15 we're back on record. 16 Q Mr. Brochner, can you turn to 17 Exhibit 3009 in your binder, please? 18 MR. SCHOENFELD: Mark this as 3009. 19 (Whereupon the above mentioned was 20 marked for Identification.) 21 Q Are you there, Mr. Brochner? 22 THE INTERPRETER: Yes, he is. 23 Q Would you do me a favor, Ms. 24 Gregersen? We're not seeing you in the main 25 video screen.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q If I wanted to know what steps, if 2 any, were taken in response to that report, 3 who would I ask? 4 MR. OXFORD: Object to the form. 5 You can answer. 6 A I think it's somewhat a special 7 question, but audits and reports are building 8 on top of each other. So this report I have 9 in front of me and the -- this report under 10 this tab that you just mentioned, an audit of 11 dividend and royalty tax from 2012 builds on 12 the 2010 report so that you don't have to go 13 back and read the 2010 report, is what it 14 says. 15 Q Let me ask the question 16 differently. 17 You don't know what was done within 18 the Ministry of Taxation following the 2010 19 audit report because you didn't arrive until 20 May 2012. 21 Correct? 22 MR. OXFORD: Objection to the form. 23 A Yes, it's correct. But as I 24 mentioned, a working group was set up and it 25 came with some recommendations as a follow-up</p>
<p style="text-align: right;">Page 115</p> <p>1 Off the record for a second, 2 please? 3 THE VIDEOGRAPHER: Stand by. The 4 time is 12:37 p.m. New York time and 5 we're going off the record. 6 (Whereupon a discussion was held 7 off the record.) 8 THE VIDEOGRAPHER: Stand by. The 9 time is 12:38 p.m. New York time and 10 we're back on record. 11 Q Mr. Brochner, before I go to 12 Exhibit 3009, you'll recall that we talked 13 about the 2010 audit report earlier this 14 morning? 15 Do you remember that? 16 A Yes, that's correct. 17 Q Who would I talk to if I wanted to 18 understand what steps were taken in response 19 to that report? 20 A Are we talking about the report 21 from 2012 that we have here in front of me? 22 Q No, the 2010 report we discussed 23 earlier, the one addressed to Peter Loft. 24 Do you recall that report? 25 A Yes, I remember.</p>	<p style="text-align: right;">Page 117</p> <p>1 to the 2010 report. 2 And now the internal audit is 3 reviewing that in this report. 4 Q Were there more -- excuse me. 5 MR. OXFORD: Alan, can you let him 6 finish, please? 7 MR. SCHOENFELD: Sure. 8 A So here, in this audit of dividend 9 royalty tax for '12, it says, in the second 10 bullet, that "the purpose of this report is 11 to follow up on the 2010 report and the steps 12 otherwise taken." 13 Q Okay. Have you seen this document 14 before? 15 A I only saw it in the summer after 16 August/September '15. 17 Q It's addressed to you as department 18 chief, correct? 19 Sorry? I didn't hear the answer. 20 There was a glitch. 21 A That's correct. 22 Q And it's dated May 30, 2013. 23 Is that correct? 24 A Yes, that's correct. 25 Q And the handwritten notation on the</p>

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33 (Pages 126 to 129)

<p style="text-align: right;">Page 126</p> <p>1 So the responsibility of management</p> <p>2 has to address the individual points of</p> <p>3 criticism, and not necessarily agree to every</p> <p>4 point.</p> <p>5 Q When you first read this report in</p> <p>6 September of 2015, did you inquire as to what</p> <p>7 steps were taken in May of 2013 to respond to</p> <p>8 SIR's criticism?</p> <p>9 A Yes, I did.</p> <p>10 Q Did you ask why those action plans</p> <p>11 were insufficient to prevent the fraud that</p> <p>12 was disclosed to you as of the summer of</p> <p>13 2015?</p> <p>14 MR. OXFORD: Objection to form.</p> <p>15 A I disagree on the grounds for the</p> <p>16 question. There's nowhere -- there's no</p> <p>17 place in this report where they mention</p> <p>18 fraud.</p> <p>19 Q The recommendation 3.4 on Page 15</p> <p>20 says that --</p> <p>21 MR. OXFORD: You interrupted his</p> <p>22 answer.</p> <p>23 MR. SCHOENFELD: I'm sorry?</p> <p>24 MR. OXFORD: He hasn't finished his</p> <p>25 answer. Please let him finish.</p>	<p style="text-align: right;">Page 128</p> <p>1 Is that right?</p> <p>2 A I don't understand what you are</p> <p>3 referring to. But on Page 6, the</p> <p>4 third-to-the-last paragraph --</p> <p>5 Q You testified -- go ahead.</p> <p>6 A It states clearly that it's the</p> <p>7 bank scheme that doesn't have sufficient</p> <p>8 control, and it was not on the bank scheme</p> <p>9 that there was fraud.</p> <p>10 Q The last item on the list in the</p> <p>11 table on Page 15 says that "the business</p> <p>12 procedures for payment of refunds should</p> <p>13 describe what needs to be verified before the</p> <p>14 request is met."</p> <p>15 Is that right?</p> <p>16 A That's correct. And it's a point</p> <p>17 of criticism with respect to lack of</p> <p>18 procedures or forms of procedure, but it's</p> <p>19 not critical. And I refer to the number "3"</p> <p>20 in the column regarding the materiality.</p> <p>21 Q Again, if you had received this</p> <p>22 report -- go ahead.</p> <p>23 A I'd like to comment that this</p> <p>24 report is not very critical of the</p> <p>25 procedures. There are many other audit</p>
<p style="text-align: right;">Page 127</p> <p>1 A So Item 3 states that "SKAT must</p> <p>2 take a better position or secure itself</p> <p>3 better to avoid incorrect payment or</p> <p>4 disbursement of dividend withholding tax."</p> <p>5 And that concern, specifically as</p> <p>6 it's stated on Page 6 of the report, it</p> <p>7 concerns that bank scheme, and not the</p> <p>8 so-called forms scheme. And the fraud took</p> <p>9 place on the forms scheme.</p> <p>10 Q And that distinction of the form</p> <p>11 scheme and the fraud scheme is in the basis</p> <p>12 of this report.</p> <p>13 Is that your testimony?</p> <p>14 A I'm sorry. I couldn't hear what</p> <p>15 you said.</p> <p>16 Q I said that that distinction</p> <p>17 between the form scheme and the bank scheme</p> <p>18 is clear from the face of this report.</p> <p>19 Is that your testimony?</p> <p>20 A It's not something that I say. It</p> <p>21 can be read from Page 6 of the report.</p> <p>22 Q So SIR's report is pretty clear.</p> <p>23 Correct?</p> <p>24 THE INTERPRETER: So what?</p> <p>25 Q SIR's report is pretty clear.</p>	<p style="text-align: right;">Page 129</p> <p>1 reports with recommendations.</p> <p>2 But the National Audit Office did</p> <p>3 not read it as a report with serious</p> <p>4 criticism and it doesn't say anything about</p> <p>5 fraud in the report.</p> <p>6 Q Mr. Brochner, where on Page 6 are</p> <p>7 you pointing for the fact that the criticism</p> <p>8 was leveled only with respect to the bank</p> <p>9 scheme and not the form scheme?</p> <p>10 MR. OXFORD: Objection. You can</p> <p>11 answer again.</p> <p>12 THE INTERPRETER: But he couldn't</p> <p>13 hear the question.</p> <p>14 MR. OXFORD: Alan, can you repeat</p> <p>15 the question, please?</p> <p>16 THE INTERPRETER: It was completely</p> <p>17 blurred.</p> <p>18 Q You reference Page 6 as the basis</p> <p>19 for your understanding that the -- you</p> <p>20 reference Page 6 as the basis for your</p> <p>21 understanding that the criticism we were</p> <p>22 reviewing refers only to the bank scheme and</p> <p>23 not the form scheme.</p> <p>24 Correct?</p> <p>25 A Yes, that's correct.</p>

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35 (Pages 134 to 137)

Page 134

1 MR. OXFORD: I'll object to the
2 form, and it misstates the witness'
3 testimony. He referred to a specific
4 page and specific paragraphs, not the
5 whole report.

6 A So the report is -- on Page 6 of
7 the report, and the conclusion on Page 6,
8 it's not my reading of it. It's SIR's
9 conclusion and SIR's thought.

10 Q Let's look at Paragraph 76 of the
11 2016 National Audit Office report, which is
12 Exhibit 3008 in your binder.

13 MR. SCHOENFELD: Mark this as 3008.
14 (Whereupon the above mentioned was
15 marked for Identification.)

16 Q So that paragraph, as I understand
17 it, says that the 2013 audit report dealt
18 first and foremost with reimbursement of
19 dividend tax through the bank program.

20 Is that right?

21 A It's correct that this is the
22 conclusion by the National Audit Office. But
23 when you read the SIR report from 2013 and
24 Page 6, that's not the conclusion that's
25 stated there.

Page 136

1 A So in the -- in the report from
2 '15, it says in Paragraph 34 that "SKAT needs
3 to protect itself better against wrongful
4 reimbursement of dividend tax," and that that
5 concerns the bank scheme.

6 And that appears on Page 6 of the
7 report.

8 Q That's your answer to the question?

9 A Yes.

10 Q Okay. It's your testimony that you
11 never -- you didn't receive the 2013 report
12 in 2013.

13 Correct?

14 MR. OXFORD: Objection, asked and
15 answered.

16 A So as I said before, by a
17 regrettable mistake, I did not receive the
18 report. The report was sent according to the
19 completely normal procedures.

20 It was sent to the responsible
21 management in SKAT and to the National
22 Office -- Audit Office. And according to
23 normal procedure, an action plan was
24 prepared.

25 Q If you had received the report in

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1 Q Do you disagree with the conclusion
2 in the second sentence of this paragraph that
3 says that "the audit report pointed to a
4 general need for SKAT to protect itself
5 better from wrongful reimbursement of
6 dividend tax?"

7 MR. OXFORD: Objection to the form.
8 You can answer.

9 A I conclude that's the comment by
10 the National Audit Office and their
11 conclusion from the 2013 report.

12 Q Do you disagree with that
13 conclusion?

14 A I disagree with you presenting it
15 as a seriously criticizing report.

16 Q I'm not presenting it as anything.
17 I'm asking whether you agree that
18 the audit report from 2013 pointed to a
19 general need for SKAT to protect itself
20 better from wrongful reimbursement of
21 dividend tax?

22 MR. OXFORD: Object to the form.
23 Asked and answered. You've asked the
24 witness half a dozen times now, but he
25 can answer again.

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1 2013, would you have taken additional actions
2 with respect to the concerns identified in
3 the report?

4 MR. OXFORD: I object to the form
5 of the question.

6 A It's a hypothetical question. As
7 the report did not raise particular
8 criticism, a special criticism, I wouldn't
9 believe that I would take separate steps or
10 specific steps in response to it.

11 And the National Audit Office read
12 the report in the same way.

13 Q Let's look at Tab 3027 of your
14 binder, please.

15 MR. SCHOENFELD: Mark this as 3027.
16 (Whereupon the above mentioned was
17 marked for Identification.)

18 THE INTERPRETER: Yes, we have
19 found it, or he has found it.

20 Q Have you seen this report
21 previously?

22 A Yes.

23 Q Did you receive this report in
24 2014?

25 A Yes, I did.

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41 (Pages 158 to 161)

<div>Page 158</div> <div><div>1</div><div>have you ever seen written policies and</div><div>2</div><div>procedures for handling dividend withholding</div><div>3</div><div>tax refund applications?</div><div>4</div><div>A I don't recall. But I remember</div><div>5</div><div>that the formal verification steps in</div><div>6</div><div>connection with withholding tax refunds were</div><div>7</div><div>written down as I recall it -- yeah, were</div><div>8</div><div>written down.</div><div>9</div><div>MR. SCHOENFELD: Okay. Let's take</div><div>10</div><div>a short break. I may be done. Let's</div><div>11</div><div>come back in five minutes.</div><div>12</div><div>MR. OXFORD: That's fine. Thanks.</div><div>13</div><div>THE VIDEOGRAPHER: Stand by. The</div><div>14</div><div>time is 3:16 p.m. New York time and</div><div>15</div><div>we're going off the record.</div><div>16</div><div>(Brief recess taken.)</div><div>17</div><div>THE VIDEOGRAPHER: Stand by. The</div><div>18</div><div>time is 3:22 p.m. New York time and</div><div>19</div><div>we're back on record.</div><div>20</div><div>MR. SCHOENFELD: Mr. Brochner, I</div><div>21</div><div>have no further questions for you, so I</div><div>22</div><div>thank you for your time. And I thank</div><div>23</div><div>you, Madam Translator, for your efforts</div><div>24</div><div>today as well.</div><div>25</div><div>I don't know if other defendants</div></div>	<div>Page 160</div> <div><div>CERTIFICATE</div><div>1</div><div>I, MICHAEL FRIEDMAN, a Certified Court</div><div>2</div><div>Reporter and Notary Public, qualified in and for</div><div>3</div><div>the State of New Jersey do hereby certify that</div><div>4</div><div>prior to the commencement of the examination JENS</div><div>5</div><div>BROCHNER was duly sworn by me to testify to the</div><div>6</div><div>truth the whole truth and nothing but the truth.</div><div>7</div><div>I DO FURTHER CERTIFY that the foregoing</div><div>8</div><div>is a true and accurate transcript of the testimony</div><div>9</div><div>as taken stenographically by and before me at the</div><div>10</div><div>time, place and on the date hereinbefore set forth.</div><div>11</div><div>I DO FURTHER certify that I am neither a</div><div>12</div><div>relative of nor employee nor attorney nor counsel</div><div>13</div><div>for any of the parties to this action, and that I</div><div>14</div><div>am neither a relative nor employee of such attorney</div><div>15</div><div>or counsel, and that I am not financially</div><div>16</div><div>interested in the action.</div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div>MICHAEL FRIEDMAN, CCR of the</div><div>23</div><div>State of New Jersey</div><div>24</div><div>License No: 30X100228600</div><div>25</div><div>Date: May 1, 2021</div></div>
<div>Page 159</div> <div><div>1</div><div>have questions for the witness.</div><div>2</div><div>THE INTERPRETER: You're welcome.</div><div>3</div><div>We say both of us.</div><div>4</div><div>MR. SCHOENFELD: Going once.</div><div>5</div><div>MR. OXFORD: Going twice, going</div><div>6</div><div>three times.</div><div>7</div><div>THE VIDEOGRAPHER: Stand by. The</div><div>8</div><div>time is 3:23 p.m. and we're going off</div><div>9</div><div>the record.</div><div>10</div><div>THE COURT REPORTER: Just recapping</div><div>11</div><div>orders, Hughes Hubbard, two realtime</div><div>12</div><div>hookups, rough draft, two-day final.</div><div>13</div><div>Hanamirian, standard delivery copy.</div><div>14</div><div>Kostelanetz, standard delivery</div><div>15</div><div>copy.</div><div>16</div><div>K&L Gates, rough draft, standard</div><div>17</div><div>delivery copy.</div><div>18</div><div>Wilmer Hale, six realtime hookups,</div><div>19</div><div>rough draft, standard delivery copy.</div><div>20</div><div>Binder & Schwartz, one realtime</div><div>21</div><div>hookup, rough draft, standard delivery</div><div>22</div><div>copy.</div><div>23</div><div>Dewey Pegno, rough draft, standard</div><div>24</div><div>delivery copy.</div><div>25</div><div>(Witness was excused.)</div></div>	<div>Page 161</div> <div><div>LAWYER'S NOTES</div><div>1</div><div></div><div>2</div><div>PAGE LINE</div><div>3</div><div></div><div>4</div><div></div><div>5</div><div></div><div>6</div><div></div><div>7</div><div></div><div>8</div><div></div><div>9</div><div></div><div>10</div><div></div><div>11</div><div></div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>

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<div style="text-align: center;">DEPOSITION ERRATA SHEET</div> <div style="text-align: center;">DECLARATION UNDER PENALTY OF PERJURY</div> <p>I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.</p> <p>Signed on the _____ day of _____, 20____</p> <div style="text-align: center;">JENS BROCHNER</div>	<div style="text-align: center;">DEPOSITION ERRATA SHEET</div> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>SIGNATURE: _____ DATE: _____</p> <div style="text-align: center;">JENS BROCHNER</div>
<div style="text-align: right; padding-right: 10px;">Page 163</div> <div style="text-align: center;">DEPOSITION ERRATA SHEET</div> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>SIGNATURE: _____ DATE: _____</p> <div style="text-align: center;">JENS BROCHNER</div>	